

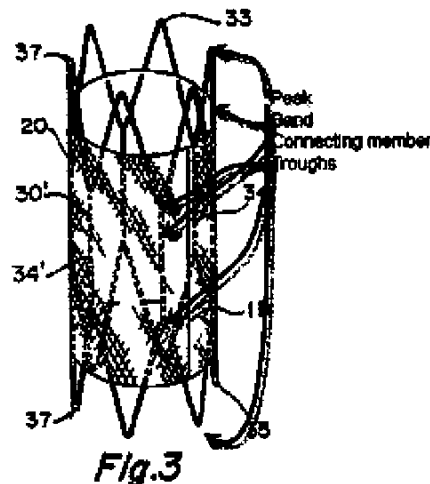
### **Remarks**

This Amendment After Final is in response to the Final Office Action dated **July 13, 2007**. Claims 9, 10 and 13-20 are pending in this application. The Office Action rejected claims 17 and 19 under 35 USC § 102 over Robinson (US 5935161); rejected claims 17 and 20 under 35 USC § 102 over Pinchasik (US 5449373); rejected claims 9, 10, 13, 16, 17 and 20 under 35 USC § 102 over Palmaz (US 5102417); rejected claims 17-19 under 35 USC § 102 over Lau (US 5514154); and rejected claims 9, 10 and 13-16 under 35 USC § 103 over Lau in view of Palmaz.

By this Amendment, claims 9, 10, 13, 16 and 17 are amended and claims 21-30 are added. Applicants reserve the right to prosecute any cancelled subject matter in a subsequent patent application claiming priority to the immediate application. Support for the amendments can be found at least in Figure 4. Reconsideration in view of the above amendments and the following remarks is respectfully requested.

### **Claim Rejections – 35 USC § 102 (Robinson)**

The Office Action rejected claims 17 and 19 under 35 USC § 102 over Robinson, and provided a marked version of Robinson Figure 3 explaining the rejection. See Office Action at page 5.



Applicants note that the Examiner's use of "peak" and "trough" is inconsistent between the "serpentine bands." Specifically, the two "peaks" defined by the Examiner face opposite directions, and similarly the two "troughs" defined by the Examiner face opposite

directions.

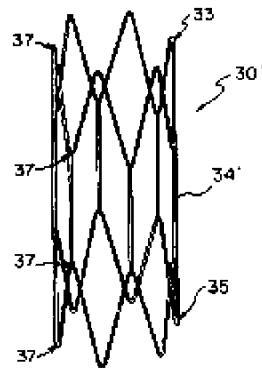
A person of ordinary skill in the art of stent design would recognize the inconsistent application of terms in the rejection, and would not interpret the rejected claims as reading upon Robinson. Under a proper interpretation, use of the terms “peak” and “trough/valley” would be consistent across the various serpentine bands.

For the purpose of furthering prosecution, claim 17 is amended herein for clarification purposes. Claim 17 now specifies that “each band has a proximal end and a distal end and comprises alternating peaks and valleys, the peaks located at the proximal end and the valleys located at the distal end.” Claim 17 is also amended to replace an occurrence of “trough” with “valley.”

A person of ordinary skill in the art would recognize that the terms “proximal” and “distal” provide for orientation of elements recited in the claim. For example, as applied to the art of stents and catheters, wherein a physician advances a catheter into a patient’s body, the terms “proximal” and “distal” generally indicate that the proximal element is situated closer to the physician, and the distal element is situated farther away from the physician. As applied to a stent positioned on the catheter, one end of the stent would be considered the proximal end, and the other end would be considered the distal end. Similarly, each serpentine band of the stent would include a proximal end and a distal end, wherein the proximal end of the band is oriented closer to the physician than the distal end of the band.

The amendment to claim 17 precludes the interpretation of Robinson asserted in the Office Action, as the peaks are required to be at the proximal end of each band and the valleys are required to be at the distal end of each band. If the Robinson “bends” located at the proximal end of the stent are considered “peaks,” then the Robinson “bends” located at the distal end of the stent must be characterized as “valleys.”

Claim 17 further requires a “cell” to be partially defined by “portions of two different serpentine bands, one of the portions being proximal to the other portion, the peaks of the proximal portion being offset circumferentially from the valleys of the distal portion relative to the circumference of the body.”

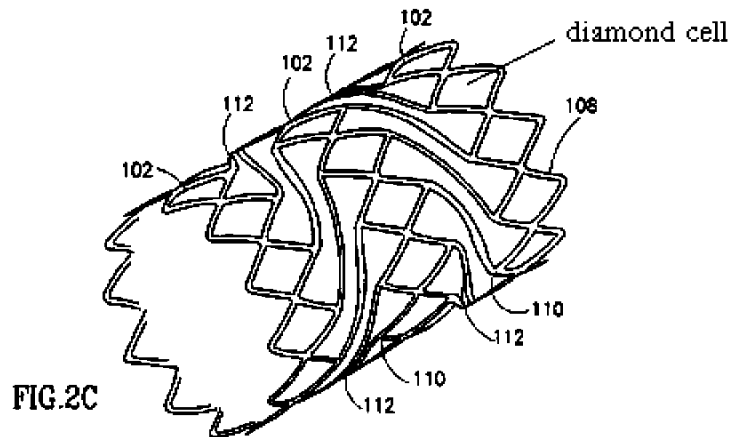


Robinson does not teach a peak of a cell being “circumferentially offset” from a valley of the cell. As shown in Figure 4, provided above, any “cell” defined by the Robinson framework will have its peak circumferentially aligned with its valley, and not offset as required by claim 17.

### Claim Rejections – 35 USC § 102 (Pinchasik)

Claim 17 recites a stent comprising serpentine bands connected by connecting members, and further recites, “the stent having a plurality of cells, **each cell** defined by two connecting members and portions of two different serpentine bands” (emphasis added).

The rejection characterizes Pinchasik segments 102 as the claimed “serpentine bands” and the Pinchasik links 112 as the claimed “connecting members.” See Office Action at page 5.



Pinchasik does not meet the claim language because some of the “cells” are not bounded by a link 112. See e.g. Figure 2C, provided above. Each segment 102 includes cells that are defined entirely by the segment/“band” structure. For example, see the cell marked “diamond cell” in Figure 2C above.

Therefore, Applicants assert that Pinchasik does not disclose or suggest each limitation of claim 17, and that claim 17 is patentable over Pinchasik under 35 USC § 102. Claim 20 depends from claim 17 and is patentable over Pinchasik for at least the reasons discussed with respect to claim 17. Accordingly, Applicants request withdrawal of the rejections under 35 USC § 102 over Pinchasik.

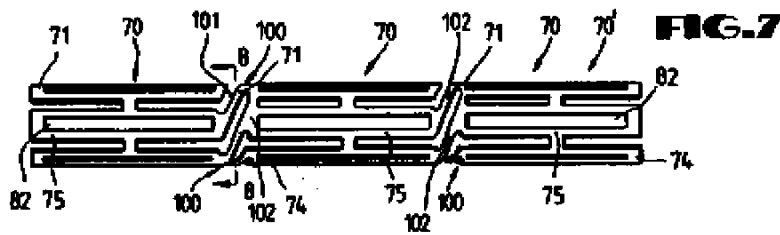
#### **Claim Rejections – 35 USC § 102 (Palmaz)**

The Office Action rejected claims 9, 10, 13, 16, 17 and 20 under 35 USC § 102 over Palmaz.

#### **Independent Claims 9 and 16**

Claims 9 and 16 require one “annular element” to have less compression resistance than another “annular element.”

The Office Action asserts that an end segment of a Palmaz stent will inherently have less compression resistance than the middle segment because of the presence of the connectors 102. See Office Action at page 6, and Figure 7, provided below.



A person of ordinary skill in the art would recognize that all compression resistance in the Palmaz stent is provided by the segments 70, as the segments 70 are the only structure that can resist radial compression. The connectors 102 themselves cannot provide any compression resistance as they are fully supported by the segments 70. Any increased resistance to external compression shown by the middle segment 70 stems from the adjacent segments 70 – the connectors 102 transfer compression resistance provided by the end bands.

Claim 9 is amended for clarification purposes and recites, “the structure of a first annular element of the stent providing the stent with less compression resistance than provided by the structure of a second annular element of the stent.” Claim 16 is similarly amended.

Thus, claims 9 and 16 require comparison of the compression resistance provided by the structure of the “annular elements,” while disregarding any potential force transfer caused by the Palmaz connectors 102.

Palmaz does not disclose or suggest that the structure of the middle segment is mechanically different from either end segment. Thus, the segments themselves will each provide an equal amount of compression resistance to the stent.

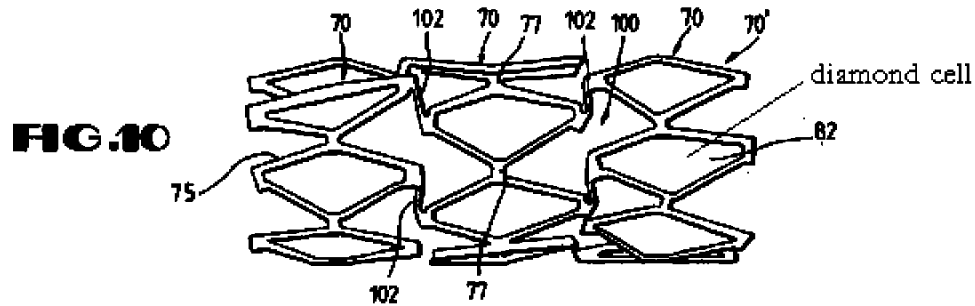
Palmaz does not disclose or suggest the structure of one segment providing more compression resistance than the structure of another segment. Therefore, Applicants assert that Palmaz does not disclose or suggest each limitation of independent claims 9 or 16, and that claims 9 and 16 are patentable over Palmaz under 35 USC § 102. Claims 10 and 13 depend from claim 9 and are patentable over Palmaz for at least the reasons discussed with respect to claim 9. Accordingly, Applicants request withdrawal of the rejection of claims 9, 10, 13 and 16 under 35 USC § 102 over Palmaz.

#### Independent Claim 17

Claim 17 recites a stent comprising serpentine bands connected by connecting

members, and further recites, “the stent having a plurality of cells, each cell defined by two connecting members and portions of two different serpentine bands” (emphasis added).

Thus, claim 17 requires each cell of the stent to be at least partially defined by “connecting members.”



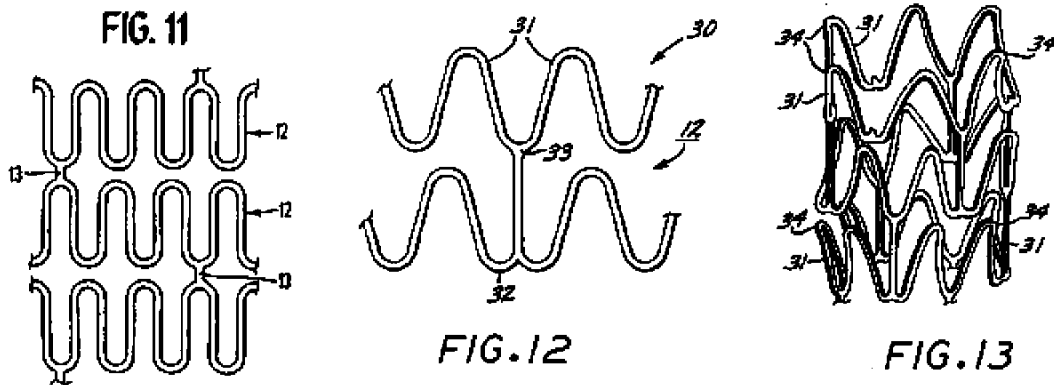
Palmaz does not meet the claim language because some of the “cells” are not bounded by a connector member 102. See e.g. Figure 10, provided above. Each expandable member 70 includes cells that are defined entirely by the expandable member/“band” structure. For example, see the cell marked “diamond cell” in Figure 10 above.

Therefore, Applicants assert that Palmaz does not disclose or suggest each limitation of claim 17, and that claim 17 is patentable over Palmaz under 35 USC § 102. Claim 20 depends from claim 17 and is patentable over Palmaz for at least the reasons discussed with respect to claim 17. Accordingly, Applicants request withdrawal of the rejection of claims 17 and 20 under 35 USC § 102 over Palmaz.

#### **Claim Rejections – 35 USC § 102 (Lau)**

The Office Action rejected claims 17-19 under 35 USC § 102 over Lau. Applicants note that although independent claim 17 is rejected, the rejection discusses limitations pertinent to other independent claims.

The rejection cites to Lau Figures 11-13. See Office Action at page 3. These Figures are provided below.



Claim 17 requires that “each connecting member” be “connected between a peak and a valley.” Figures 12 and 13 show portions of a stent wherein the connectors span between similar portions of the cylindrical elements 12, for example, peak-to-peak or valley-to-valley. These Figures do not meet the limitations of claim 17.

The embodiment of Figure 11 does not meet claim 17, as the claim further requires a “cell” to be partially defined by “portions of two different serpentine bands, one of the portions being proximal to the other portion, the peaks of the proximal portion being offset circumferentially from the valleys of the distal portion relative to the circumference of the body.” As shown above, any “cell” defined by the framework of Lau Figure 11 will have its peaks circumferentially aligned with its valleys, and not offset as required by claim 17.

Therefore, Applicants assert that Lau does not disclose or suggest each limitation of claim 17, and that claim 17 is patentable over Lau under 35 USC § 102. Claims 18 and 19 depend from claim 17 and are patentable over Lau for at least the reasons discussed with respect to claim 17. Accordingly, Applicants request withdrawal of the rejection of claims 17-19 under 35 USC § 102 over Lau.

### Claim Rejections – 35 USC § 103

The Office Action rejected claims 9, 10 and 13-16 under 35 USC § 103 over Lau in view of Palmaz. These rejections are traversed, however, amendments to independent claims 9 and 16 have rendered the rejections moot.

Claim 9 recites, “the structure of a first annular element of the stent providing the stent with less compression resistance than provided by the structure of a second annular element

of the stent, wherein the first annular element is located at an end of the stent.” Claim 16 includes a similar recitation.

These limitations are discussed above in the section addressing the rejection of claims 9 and 16 over Palmaz.

Applicants assert that neither Lau nor Palmaz teach a stent wherein the structure of one annular element provides the stent with more compression resistance than the structure of another annular element. Thus, Lau and Palmaz do not disclose or suggest each limitation of independent claims 9 or 16. Further, the combination does not provide any teaching or suggestion that would motivate a person of ordinary skill in the art to modify the Lau stent in a way that would create a device that meets the limitations of claims 9 or 16. Therefore, Applicants assert that independent claims 9 and 16 are patentable over Lau in view of Palmaz under 35 USC § 103. Claims 10 and 13 depend from claim 9 and are patentable over Lau in view of Palmaz for at least the reasons discussed with respect to claim 9. Accordingly, Applicants request withdrawal of the rejections under 35 USC § 103.



**Conclusion**

Based on at least the foregoing amendments and remarks, Applicants respectfully submit this application is in condition for allowance. Favorable consideration and prompt allowance of claims 9, 10 and 13-30 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

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